

**W. S. Smith Electric, Inc. and Local Union No. 692,
International Brotherhood of Electrical Work-
ers, AFL-CIO. Case 7-CA-27671**

September 21, 1992

DECISION AND ORDER

BY MEMBERS DEVANEY, OVIATT, AND
RAUDABAUGH

On July 29, 1988, the National Labor Relations Board issued a Decision and Order, which, inter alia,¹ ordered W. S. Smith Electric, Inc. to make all contributions to fringe benefit funds required by its collective-bargaining agreement with the Charging Party, to reimburse its employees for any losses occurring as a result of the failure to make contributions to the funds, and to remit to the Charging Party the dues deducted from employees' wages during the terms of the collective-bargaining agreement. On June 9, 1989, the United States Court of Appeals for the Sixth Circuit entered a judgment enforcing the Board's Order.

A controversy having arisen over the amounts due under the Board's Order, on April 23, 1992,² the Acting Regional Director for Region 7 issued a compliance specification and notice of hearing alleging the amounts due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent has failed to file an answer.

By letter dated May 19, 1992, the Acting Regional attorney advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by June 2, 1992, a Motion for Default Judgment would be filed. The Respondent filed no answer.

On August 14, 1992, the General Counsel filed with the Board Motions to Transfer Case to the Board and for Default Judgment, with exhibits attached. On August 18, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motions should not be granted. The Respondent again filed no response. The allegations in the motions and in the compliance specification are therefore undisputed.

¹ 290 NLRB 519.

² The Region attempted service of the compliance specification and notice of hearing on April 23, 1992. On May 11, 1992, the specification was reserved and a returned receipt showing service was returned to the Regional Office.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the amounts due the fringe benefit funds and the Union are as stated in the compliance specification and we will order payment by the Respondent.

ORDER

The National Labor Relations Board orders that the Respondent, W. S. Smith Electric, Inc., Novi, Michigan, its officers, agents, successors, and assigns, shall make whole the fringe benefit funds and the Union by paying to the appropriate funds and the Union the amounts listed below, with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and state laws:

Health and Welfare	\$496.80
Pension	680.80
National Electrical Benefit Fund	137.02
Apprenticeship Fund	
(Bay City J.E.A.T.C.)	22.83
Union Dues	91.34
TOTAL	\$1,428.79